~~192~~ .

Department of Land Revenue

OFFICE Board of Revenue

STATION Madras

Mis ~~Roc~~ No. 2615

A1160/32

Dated 1-9-'32

To whom sent	Date	Initial
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(SUBJECT.)

Village officers (South Canara) - Kanikal Ma
Kulakaran Use - Headman Registry &
Succession - Taluqapps - Revision Petition
rejected

* Not to be filled in in the case of permanent records.

RP 153 A 1160 ex 5 1/2

Before the Honourable Commassioner of Land Revenue,

Board of Revenue, M a d r a s.

Second Appeal No. of 1932.

Between:-

Thangappe, neice of Chandayya Naika, Melanta-guthu, Kuthlur village, Karkal Taluk, South Kanara District. Post. Naravi. - Appellant.

and

Padmaya Hegde, present acting Potail of Kuthlur village, Karkal Taluk, South Kanara District. -Respondent.

BOARD OF REVENUE
4 APR 1932
LAND REVENUE AND

The appellant abovenamed begs to file this second appeal against the orders of the Collector of South Kanara, D.Dis.Nos.9414-31 and 546-32. dated 2nd December 1931 and 20th January 1932 respectively.

Facts of the case:-

1. The Potailship of Kuthlur village in Karkal Taluk belongs to the appella-nt's family on hereditary right. The last permanent holder of the post was - Chandayya Naika, the appellant's uncle. In 1911, he resigned the post in favour of his nephew Appu Naika. The Collector, while accepting his resignation, did not appoint Appu Naika as permanent Potail, but entertained him on duty on probation subject to the condition that he should qualify himself for the post within two years by passing the prescribed special Tests.

2. Before the expiry of the period of Appu - Naika's probation, and before his actual confirmation as Potail, a case of fraud and oppression was started against him with the result that his services were "dispensed with" by the Divisional Officer as per his

pp49-51 O(M)

order No.Dis.G.C.796/14, dated 1st April 1914. The actual words used in the said order are "His services are dispensed with and he will not be employed again" The order further contains the remarks that the evidence that came forth was not sufficient to substantiate a criminal charge against Appu Naika, but it does not contain a direction under Sub-section 4 of Section 10 of the Hereditary Village Officer's Act, excluding his heirs from succession during his life-time.

p 762 of Madras Code Vol II

2. Appu Naika appealed to the Collector against the above order. The Collector however did not consider it necessary to discuss the charges against Appu Naika in detail, but dismissed the appeal and refused to reinstate him holding that he was only an acting Potail, that he was directed to pass the Village Officer's Special Tests before the previous Jamabandi, that he did not do so, and that, on this ground alone, he was unfit for confirmation. It is significant that the Collector also did not direct the exclusion of Appu Naika's heirs from succession during Appu Naika's life-time. (Please see the Collector's proceedings dated 15-8-1914 in Revenue Appeal No.95/1914.)

Last two and rules

4. After the termination of Appu Naika's probation and after his removal from the post as stated above, an enquiry was started to select a candidate for the necessary vacancy and there were a number of applicants. The Divisional Officer, after a searching enquiry, appointed one Dugganna Naika, a junior of the appellant's family, as permanent Potail but thought that it was undesirable to allow the appointee to enter on his duties during the life-time of Appu Naika and appointed one Marianna Hegde as Dugganna Naika's deputy during Appu Naika's life-time (Please see Divisional Officer's Order N.Dis.G.C.2048/14, dated 19-8-1914). The appellant submits with due deference that this order was wrong, first

p 220 of (L)

p 220 of (L)

because Appu Naika was not a "dismissed" peemanent Potail but was only acting man, whose services "were dispensed-with" on certain charges relying on evidence that "was not sufficient to substantiate a criminal charge against him" and whom the Collector refused to confirm and re-instate on account of his failure to pass the Village Officer's Special Test within the period of probation allowed to him, secondly bacause neither the order of removal of Appu Naika from the post nor the Collector's order dismissing Appu Naika's appeal directed the exclusion of Appu Naika's heirs from succession during Appu-Naika's life-time and lastly because Section 10, Sub-section 6, of the Hereditary Village Officers' Act imperatively lays down that in the absence of such a direction, the vacancy caused by the dismissal, removal or suspension of the last holder shall be filled up as if it had been caused by the death of the last holder.

5. Dugganna Naika did not appeal against the above order of the Divisional Officer and Marianna Hegde continued as his deputy till 1920, when Dugganna Naika died, and the local Revenue authorities again took up the question of selecting a rightful heir for appointment as permanent Potail of the village. The appellant's family put forth the claims of a minor in the family named Nagaraja the present appellant's first cousin's grand son, and requested that the name of the said minor might be registered as heir to the post and that a deputy might be appointed for the minor. The Divisional Officer again declined to make any permanent arrangements on the ground that Appu Naika was still living and that B. S. O.148, para 5, forbade making any permanent arrangements in such cases, and ordered that Marianna Hegde should continue to act in the post during the life-time of Appu Naika. In making this order the Divisional Officer says that Appu Naika was a dismissed permanent Potail and it has been ordered that his heir

should not enter upon his duties during his life-time. (Please see the Divisional Officer's order dated 4-5-1921 , on Karkal Tahsildar's reports Dis.No.203D-Rev-21 and N.Dis.736-Sup 1921 dated 20-3-1921 and 22-4-1921 respectively) The appellant need hardly submit that this is also a wrong order based upon mistake of facts on the part of the Divisional Officer B.S.O.148. para 5, forbids the appointment of only those that are disqualified for appointment under Sectic 10 (1) of the Hereditary Village Officers Act, but does not forbid either the registration of the name of a minor who is the next legal heir to the post under Section 10 (5) Ibid, or the appointment of a deputy during the minority of such heir, merely because some other member of the family, whose services had been dispensed with when he was acting in the post some years back on certain charges which could not be substantiated in a Criminal Court was still living. On the other hand, Section 10 (6) Ibid quoted in the preceding paragraph imperatively lays down that a vacancy of this kind should be filled up as if it was caused by the death of the last holder in the absence of a direction under Section 10 (4), even granting for the sake of argument that Appu Naika was the last permanent holder of the post when his services were dispensed with

6. As however no appeal was then filed against the above order on behalf/ of the minor, Marianna Hegde continued to act in the post till 1930, when he died giving rise to the present proceedings. This time, the appellant again put forth the claims of the same minor Nagaraja, now aged about 16 years. The Divisional Officer, in his orders R.O.C.A.2670-31.dated 6-5-1931, and D.Dis.4254-31 dated 29-6-1931,(herewith produced) discussed the history of the whole case and ordered that minor Nagaraja be registered as next legal heir to the

Potailship and appointed one K. S. Sunder Narain Rau, a qualified man, as the minor's deputy as desired by the appellant. The appellant need hardly submit that these permanent arrangements made by the Divisional - Officer are quite in order in the circumstances of this case set forth in the preceding paragraphs.

7. The respondent was a contending party in the above proceedings on the grounds (i) that he is the younger brother of the deceased acting Potail Marianna Hegde and (ii) that he was himself acting in the post satisfactorily at the time of the above proceedings. As regards (i), the Divisional Officer rightly holds that "the claims of the descendants of the outsider who had been acting so long are quite untenable and rightly rejects them. As regards (ii) Marianna Hegde died leaving his charge in the hands of his brother, who is the Potail of the neighbouring villages of Kokradi and Savya. As under the rules this arrangement could not be allowed to last for more than three months and as the enquiry leading to the present proceedings lasted beyond three months, the Potail of Kokradi and Savya put in his younger brother, the respondent, to act as Potail of Kuthlur and this arrangement was approved as a temporary measure subject to final orders on the result of the enquiry started on Marianna Hegde's death and leading to the present proceedings. The appellant leaves it to the Honourable Board to judge whether this stop-gap arrangement confers any right on the respondent either to claim the post for himself or to question the minor's registration as heir with a deputy of his guardian's selection.

8. The respondent however appealed to the Collector against the Divisional Officer's orders R.O.C. A2670-31 and D.Dis.4254-31. dated 6-5-1931 and 29-6-31, respectively, quoted in para 6 supra. The Collector

Pp 19-20 (E) in his order D.Dis.9414-31, dated 2-12-1931, seems to have cancelled the Sub-Collector's orders, and restored the Status quo without notice either to the appellant or to any one else on behalf of the minor. The Divisional Officer then passed his order D.Dis. 3243/31 dated 25-12-1931 (produced herewith) to the effect that the Potailship of Kuthlur is restored the the Status qua ante vis-a-vis and that K. S. Sundernarayan Rau is appointed to discharge the duties of the Potail of Kuthlur during the life-time of Appu Naika. The respondent then appealed against this order also and the Collector in his order D.Dis.546-36 dated 20-1-1932 (herewith produced) cancelled it and appointed the respondent to discharge the duties of the Potail of Kuthlur during the life-time of Appu Naika. Neither the appellant nor any one else on his behalf had notice of either of these two proceedings. The appellant is therefore highly aggrieved by these exparte proceedings as the several orders passed in those proceedings are detrimental to the rights of her family to the Potailship in question.

Pp 19-21 CF 13 (F)

Pp 23-25 CF Pp 7+8 of (D)

9. To sum up, the chief grounds of the present appeal are inter alia the following:-

(a) It is not and cannot be denied that minor Nagaraja is the next legal heir to the Potailship entitled to be registered as such under Section 10 (5) of the Hereditary Village Officers' Act.

(b) It is not and cannot be denied that the minor's relatives have a right to select their own deputy for the minor provided they select a qualified and unobjectionable hand.

(c) The fact that Appu Naika, one of the members of the minor's family whose services were dispensed with in 1914, was still living cannot operate as a bar to the registration of the minor and the -

appointment of a deputy for him for the reasons explained in para 4. supra.

(d) The respondent cannot have any locus standi in this case merely by reason of his having been put in -to act as a temporary arrangement subject to final orders on the conclusion of the enquiry then going on into the claims of the minor to be registered as heir.

(e) The respondent has moreover no residence in the village. Even Marianna Hegde who was acting in the post so long had not kept a permanent residence in the village till his death though at the time of - appointing him in 1914 he had been distinctly ordered to keep his permanent residence in the village

The appellant therefore prays that the Honourable Board may be graciously pleased to set aside the - Collector's orders appealed against and to restore the orders of the Sub-Collector passed in R.O.C.A.2670-31, dated 6-5-1931 and D.Dis.4254-31 dated 29-6-1931; for this act of kindness, benevolence, and justice, the appellant shall, as in duty bound, ever remain grateful.

Kuthlur
30.3.32

Appellant.

R.O.C. A-2670-31.

Proceedings of the Sub-Collector, Coondapoor Division, dated 6-5-1931.

..P. Ananthalwar, Esquire, ...,I.C.S.

*****

* Village Officers - Karkal Taluk - Muthlur village - Potelship - Hegadeja - appointment - permanent potel -

Read the following:--

(1) Karkal Sub-Collector's letter No. [illegible]

(2) The Tahsildar's letter No. A[illegible], dated 30th March, 1931 and enclosures, received on 2-4-1931, on file of the Tahsildar, Karkal

(3) The records of this office in A. No. [illegible], dated 6-5-31 on file of the Tahsildar, Karkal

A3-5696-31

O r d e r.

The history of this case goes back to 1914 when the services of the acting potel Puttanna, who had been appointed on probation were dispensed with, coupled with a direction that he should not be employed again. By a curious mistake this person was taken to have been 'dismissed' and various orders passed on this assumption.

(A) In the interim later one Bugganna Mukka aged 18, was appointed permanent potail, but was directed not to enter on the duties of the post during the lifetime of the dismissed potel. From this it will be observed that not the registry of a minor for Bugganna was 18; and the provision that he was not to enter on is probably not quite correct as this was not a case of dismissal or suspension of a village officer when alone that direction could be exercised. Also in such cases permanent arrangements should be postponed till the death or return to duty of the person dismissed or suspended.

This Bugganna died in 1921 without ever having acted as a potel. A registry of a minor was recommended by the Tahsildar but was not approved by the Revenue Divisional Officer on the ground that the vacancy could arise only on the death of the dismissed potel.

The outsider, who had been carrying on as potel died in 1930 and the present proceedings have been commenced to fill up the vacancy.

The dismissed Puttanna is still alive.

Some irregularities have crept into the proceedin due principally to the mistake in assuming that Appu Naik dismissed in 1914. However, there is nothing to dispute dity of the permanent appointment of Duggappa in 1914 a[illegible] This person has, therefore, to be reckoned as the last officeholder for the purposes of this enquiry.

His mother's group is extinct. The eldest member of his mother's group is Appu Naika himself, the man whose service were dispensed with in 1914. The next in seniority is Nagaraja aged 16. He is ~~evidently~~ accordingly registered as heir to the potelshi of Kuthlur. He should qualify himself for the post passing the necessary test within three years after attaining majority.

The claims of the descendents of the outsider who had been acting so long are quite untenable and are rejected.

(sd) N.C. Arunachalam
6-5-1931.
Sub-Collector.

(True Copy)

For Sub-Collector.

To

Thangappe Mengsu, niece of Chandaya Naik Malanteguttu, Kuthlur village, Karkal Taluk through the Tahsildar, Karkal

Ref. A3-14546-31

[illegible]

15-6-31

Tahsildar

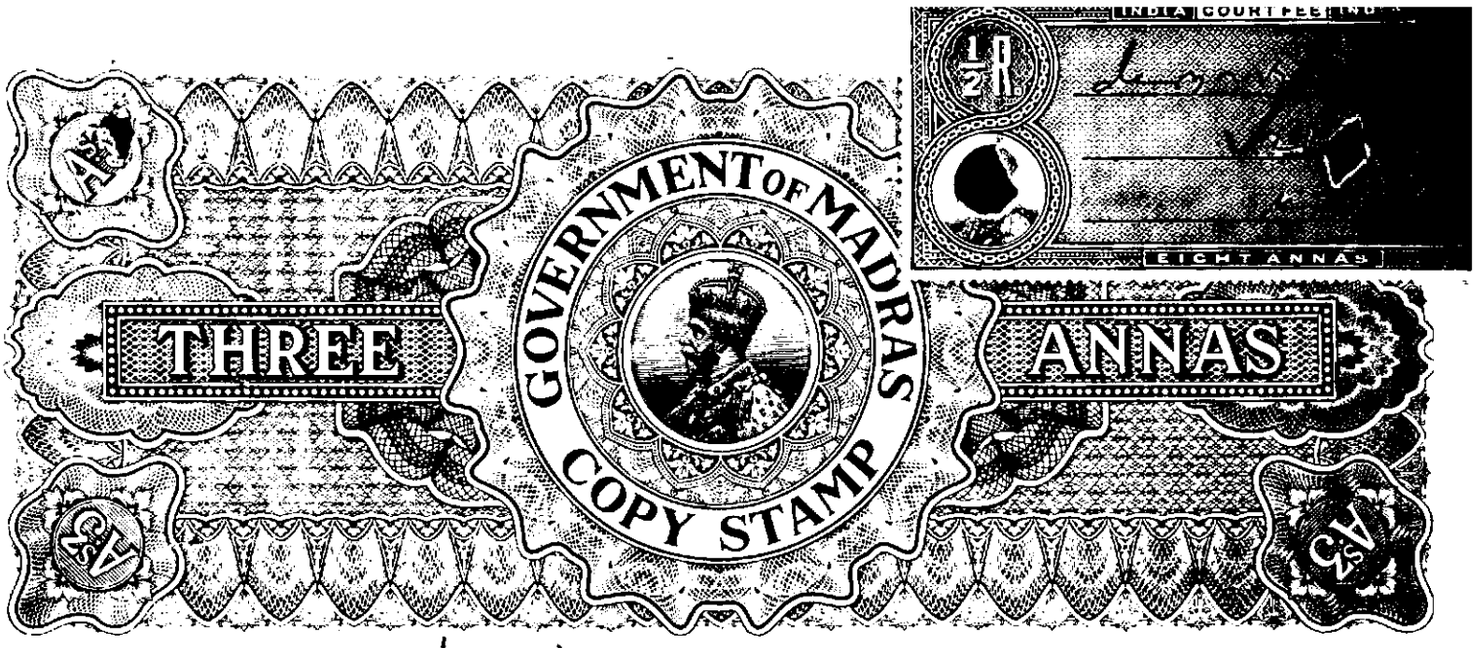
[illegible]

14-6-31

[illegible]

[illegible] 22.5.31 [illegible]

23.5.31



Original
copy 11-1-32

D. Dis. 8243-31.

Proceedings of the Sub-Collector of Coondapoor Divisio
dated 25-12-31.

N. S. Arunachalam Esq., M.A., I.C.S.

Village Officers - Karkal Taluk - Kuthlur village
Headman - Appointment - Orders passed.

Read the following papers:—

1. Collector's proceedings D. Dis. 9414-31, dated 2-12-31.
2. Karkal Tahsildar's N. Dis. 15596-31, dated 14-12-31.
and N. Dis. 15920-31, dated 21-12-31.
3. The records of Karkal Tahsildar's R. Dis. 14546-30
dated 18-9-30.
4. — do — this office R. Dis. 2670-31 and D. Dis-
4254-31.

Order

The Collector having in his proceedings D. Dis. 9414-3
dated 2-12-31 restored the status quo ante vis-a-vi
the patailship of Kuthlur arrangements have to be
made to fill up the office during the life time of Appu
Naika.

There are two qualified candidates in the villag

AA — 4/31

Ar - 166

12/7/22

Vechicle Breach

Electrical Fire

(Cable)

GOVERNMENT OF MADRAS
COPY STAMP
THREE ANNAS

one of them whose appointment was once made as an acting measure is the son of the deceased Mariamma Hegde who had been acting before him as Potail. He appears known to be on terms of hostility with the members of the family having a right to the Potail ship. The other candidate who is acting at present is permanently living in the village and enjoys the good will of that family. Under these circumstances I prefer the latter candidate Sundaranaraya Rao. He is therefore appointed to discharge the duty of the Potail of Kuthkur during the lifetime of Appu Naika.

(Sd) N. S. Arunachalam.

25/12/31.

(Joint Magistrate)
Sub-Collector

True copy on two sheets.

Words 285

Errors nil

15/3/32

Head clerk

Copied by M

Application No 57/32 for copy received — 11.3.32

Stamp papers called for — 11.3.32

Stamp papers produced — 11.3.32

Copy made — 15.3.32

Copy delivered — 15.3.32

DIVISIONAL OFFICE

Copy delivered 15.3.32

22

M 6168

12/7/32

D. Dis. No. 546-32

Proceedings of the Collector of South Kanara, Mangalore

Dated 20th January 1932

Present: Khan Bahadur J. Hussain Bavat - Camp

Village officers - Karkal Taluk (Kuthlur) Village - Headman

Appointment of Sunder narayana Rao - Petition Padmaya Hegde - orders passed -

(1) Petition dated nil of Padmaya Hegde, ex-Shroff of Babanna Hegde of Kuthlur Village, Bavari hobli

(2) Coondapur - Sub-collector's D. Dis No. 8243-31 - dated 25th December 1931 -

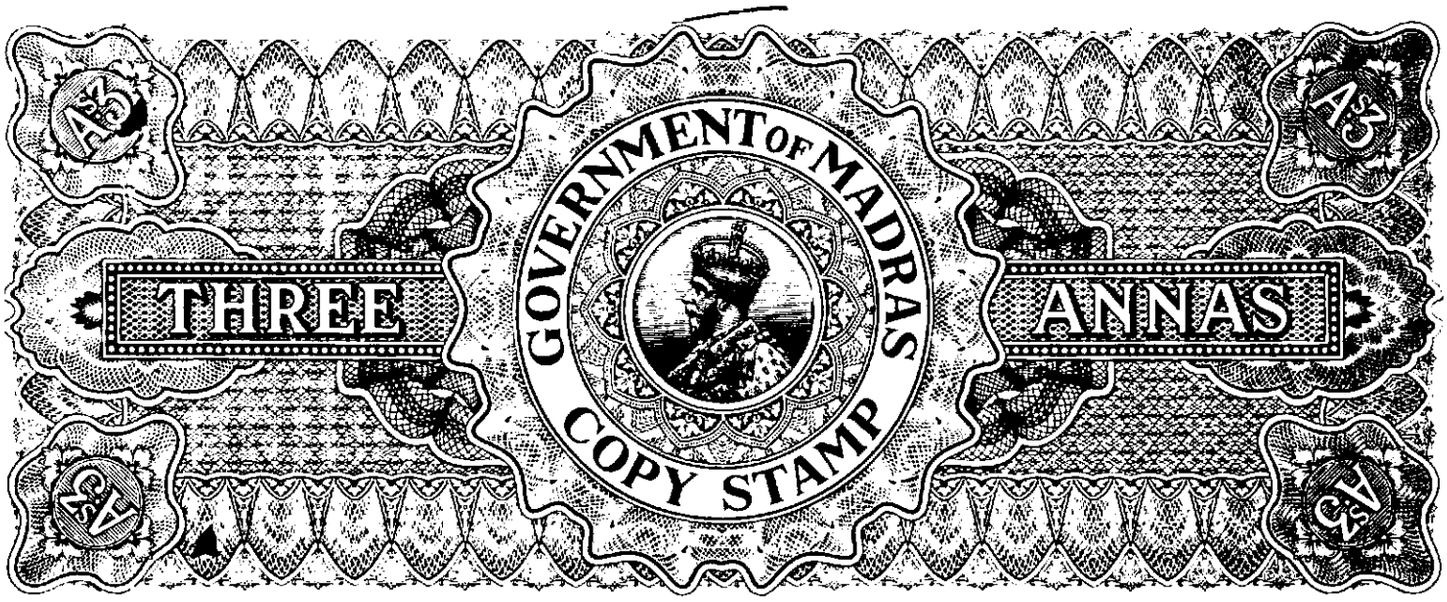
(3) This office D. Dis No. 9414-31 dated 2-12-1931

The petitioner was acting as Patail of Kuthlur Village prior to the appointment of a minor and a Deputy for him by the Sub-Collector, Coondapur. The Collector having cancelled those appointments and restored the Status quo in this office D. Dis - No. 9414-31 - dated 2-12-1931, the Sub-Collector ought not to have made a fresh appointment, but allowed the petitioner to rejoin his office. The Sub-Collector's order D. Dis No. 8243-31 dated 25th December 1931 being in

N 6175

17/2/32

Cuttack



Contravention of the Collector's order is hereby set-aside and the petitioner appointed to discharge the duties of the Kotail of Kuthlur during the life time of Appu Naika, the dismissed Kotail. —

(Sd) S. Hussain

Collector. —

20-1-32

39

Application filed for Copy on	8-3-32	Error 4 Three only (One copy on two sheets)
Stamp papers called for	" —	
Stamp papers produced	" 8-3-32	
Copy ready	" 16-3-32	
Copy delivered or sent by post to	" 16/3/32	

Total words = 207

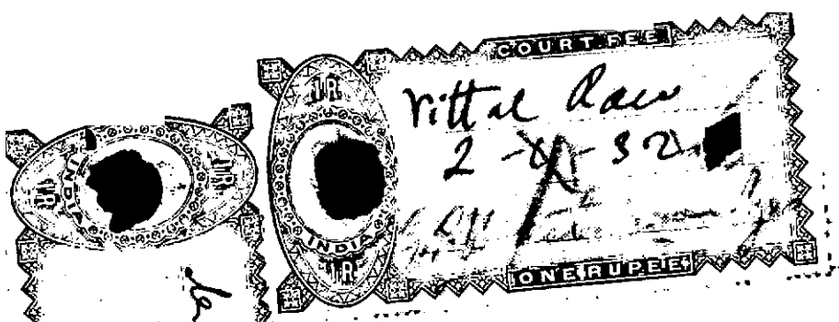
copied by Compd by Av 16-3-32

OFFICE OF THE DEPUTY COLLECTOR OF SOUTH CANARA

16-3-32

Deputy Collector

Mr Ghosh
14/1/82
Secretary Home
Government of
West Bengal
Calcutta



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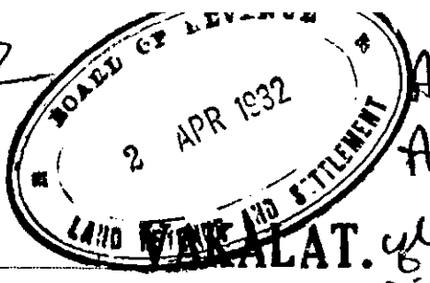


A1165
A1149

VAKALAT. (Rule 3)

Not As

In the Court of the Hon'ble The Board of Revenue
Land Revenue & Settlement Dept

SUIT PETITION NO. _____ 192

BETWEEN

Thangaffe, Near Kuthlur Village (*Plaintiff*) *Petitioner*
Karkal Taluk S. Kanara

AND

Padmayya Hegde, s/o Potail (*Defendant*) *Respondent*
of Kuthlur Village Karkal Taluk S. Kanara

I, Thangaffe, the appellant

do hereby appoint and retain Messrs T. Appaji Rao & K. Vithal Rao

to appear for me in the above (Suit) / Petition and to conduct and prosecute (~~or defend~~) the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein and empower the said Vakil, to appear in all miscellaneous proceedings in the above suit or matter till all decrees or orders are fully satisfied or adjusted and to obtain the return of documents and draw any moneys that might be payable to me in the said suit or matter.

In witness whereof I have hereunto set my hand this 30 day of March 1932

Date 30/3/1932

The address for service of the said Vakil, is
49 Kutchery Road,
Mylapore
Madras

Signed before me by the executant this 30 day of March 1932

28

In the Court of the Hon'ble The Board of Revenue Land Revenue & Settlement

No. _____
1932.

V Annaji Rao
K Bhāskara Rao
Vakils

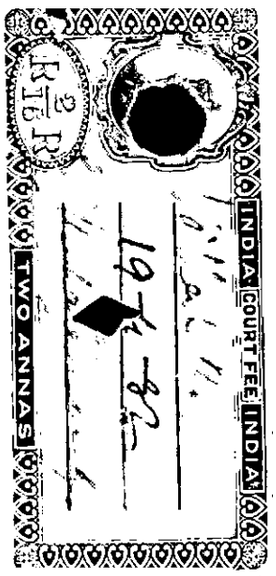
A Seshan

1 A

Sold by:—**SHENOI BROS. & CO., Mangalore.**

S. P. Works, Ltd., Mangalore.

29



Before the Honourable Commissioners of Land Re
Board of Revenue Mysore.

Second appeal No 7/1932.
against the orders of the Collector of South Kana
D Dis No 9414-31 and 576-32 dated 2-12-19
and 29th January 1932.

Thangappa appellant
vs
Padmaya Hegde Respondent.

Re- the Patnalship of Kuthlur Village Kark
Taluk S. canara district.

Permitted to
add and the
petition &
orders above
dated.
Hon'ble Sir
4/7/32

I have filed my Vakalat on behalf of the
appellant in the above case & I request that I
may be permitted to examine the Records & Papers
filed along with the appeal memo.

I beg to remain
Your most Obedient
Servant
K. Vittal Rao
advocate for Appe

Mysore
2-4-1932.

30/

Before the Board of Revenue
Land Revenue

C.A No. of 1932.

Appeal to orders of the Collector
of South Canara.
Re- Partition of
Kuthloor Village.

Serial No. of the Stamp Affixed

K. Vithal Rao
Advocate for Appellant

BOARD OF REVENUE
21 APR 1932
LAND REVENUE AND SETTLEMENT

31

A 1359 Cl. IV. 1½

Before the Honourable Commissioners of Land Revenue.
Board of Revenue Madras.

Second appeal No 9/1932
against the orders of the Collector of S. Ca
D Dis Nos 9414/31 and 626-32 dated 2-12-1931
and 29th January 1932

R - Rotitship of Kuthlur Village
in the Kasaba Taluk. Salt
Canara District.

A Suit
No 1 Stamp value
Rs - Rs 1-8-0
9/4/32

Thangaplla appellant.

vs

Ramaya Hegde - Respondent.

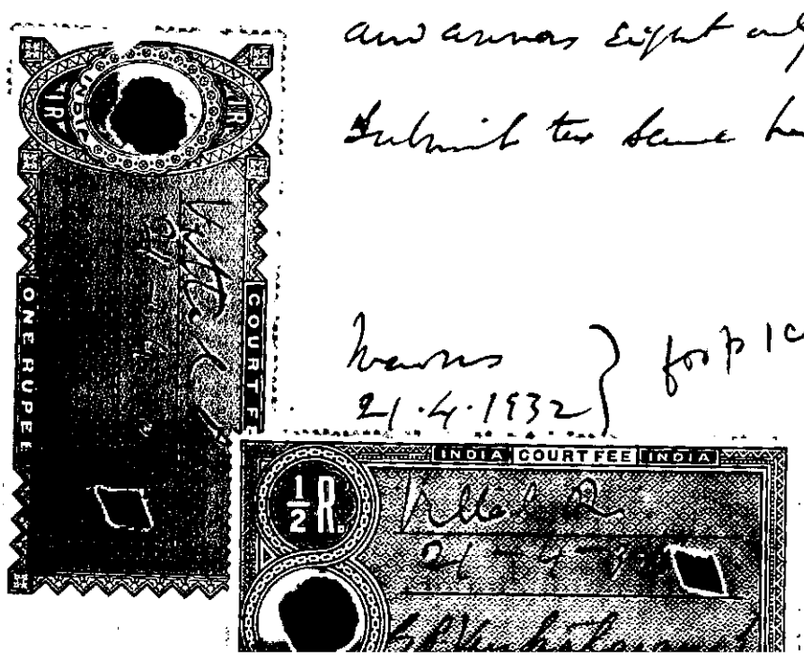
Honoured Sir

With reference to your communication
No A 1160/32 dated 5-4-1932 calling upon me
to furnish Court fee labels of the value of Rupees one
and annas eight only in the above case I beg to
submit the same herewith.

I beg to remain
Your most obedient
Servant
K. Vittal Rao
Vakil for Appellant

Madras
21.4.1932
} for p 1 cf

p. 14 cf



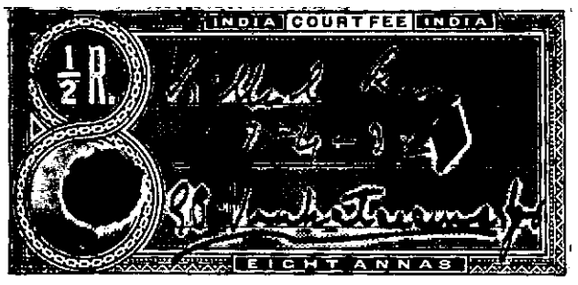
32

Secretary to Board of Revenue
Law Revenue

~~H AD~~
No A 1160/32 dt 5-4-1932.

Application bearing court
fee labels 1-8-0.
with 2 labels of Rs 1-8-0.

Under Secy
Member for
Collection



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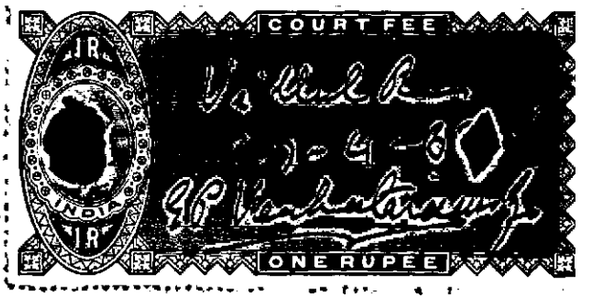

Before the Honorable Commssioner of Land Revenue

Board of Revenue,,Madras.

BOARD OF REVENUE
27 APR 1932

A 1409/32 of 25.1.2

Second Appeal No. .of 1932.

Between:--

Thangappa, niece of Chandayya Naick, Melantaguttur, Kuthlur Village, Post Naravi, Karkal Taluk, South Kanara District. — Appellant.

and

Padmappa Hegde, present acting Potail of the said village. — Respondent.

The appellant abovenamed begs to submit to the Hon'ble the Board of Revenue these undermentioned grounds of appeal against the order of the Collector of South Kanara D.Dis Nos. 9414-31 and 546-32 dated 2nd December 1931 and 20th January 1932 respectively in addition to the grounds submitted in the appeal petition by the appellant directly. and as an addenda thereto:—

1. That the Potailship of Kuthlur village belongs to the family of the appellant who follows the Aliyasanthana Law and that the male individual appointed as Potail in such cases is so appointed as representing the family and that the right to the Potailship is vested in the family as a whole.

2. That Appu Naika who was appointed in 1911 was appointed on probation and that on the dispensing with his services the right of the Potailship reverted back

to the family and that Appu Naika had no personal claim thereto apart from his membership ofthe family.

3. That the subsequent appointment of Dugganna -- Naika was on behalf of the family and practically superseded the claims of Appu Naika to the Potailship and to his being treated as an permanent Potail.

4. That the fact that Dugganna Naika did not object to the appointment of a deputy, and took no steps to -- appeal against the order appointing a deputy does not affect the rights of the family to claim the appointment for the right member ~~of the family~~ as permanent Potail on the death of Dugganna Naika and the family is not -- estopped from asserting their rights to such a claim.

5. That under the system of Aliasanthana Law the family is the unit and the individual rights of male -- members either to the family property or to hereditary offices is not personal but on behalf of the family as a whole, that the family assets and properties are -- offered as security on his behalf.

6. That till Dugganna Naka's death the family was not entitled to claim that any permanent arrangement -- should be made for the potailship.

7. That the Divisional Officer's order of 4--5--1931 on the claim of Anna alias Nagaraj who was then only a minor of 4 years was clearly ultra vires and was passed on a wrong construction ofthe Board's Standing Order 148; that the said order failed to apply the principle embodying section 10 of the Village Officer's Act.

8. That the failure of the appellant to object to the continuance of the old deputy Marianna Hegde was due to the fact that Marianna Hegde was a friend of the -- family and was in all matters acting in consonance with the wishes of the family and the interests o f the minor. Such failure does not estop the appellant or the minor from contesting the appointment of a fresh deputy in -- his place.

9. Since Marianna Hegde died only in 1930 and the minor Nagaraja is now 16 years and isshortly to come of age, the appellant and the minor are within time in -- asserting their right namely that the appointment of a deputy should be in consonance with the wishes of the family and in their interests ; and the Order of the Sub Divisional Officer in R.O.C.A. No. 2670 2617-31 dated 6--5--1931 and D.Dis No. 4254-31 dated 29--6--1931 registering the name of the minor to the Potailship and appointing K.S. Sundar Narayan Rao as deputy was perfectly correct and legitimate.

Hb 59-62 - (14) Hb 60 (ex)

10. That neither Marianna Hegde nor the respondent Padmappa Hegde had any vested interest in the deputy potailship ; that the appointment of Padmappa Hegde was a stop gap arrangement made for the continuance of the work of the potailship pending disposal of the question of registration and the appointment of a fresh deputy.

11. The present respondent not being connected -- with the appellant's family in any way and having no

vested interests had no locus standi to appeal to the Collector against the order of the Sub Divisional. -- Officer.

12. That the orders passed by the Collector on the application of the said respondent exparte and without notice to the appellant are unjust, inequitable and ultra vires.

13. The Collector failed to appreciate the motives of the Sub Divisional Officer in appointing K.S.Narayana Rao and registering the minor ; the motive being that in the conditions prevailing in the locality a person other than a jain was required and that K.S.Narayana Rao was a proper and fit person.

14. The Collector failed to notice that the respondent was acting inimically towards the appellat's family and that no enquiry had been made to his antecedents, fitness for the deputy ship.

It is requested that the cases referred to in margin 1 & ground No 5 may be kindly referred to when disposing of this petition.

Dated this 22nd day of April 1932.

K.V.Krishna Rao

Advocate for appellant

No. 49 Kutcharry Road,
Mylapore, Madras.

38

Before the Hon'ble Commissioner
of Land Revenue, Board of Revenue,
Madras.

Second appeal No. of 1932.

Before the Collector of South
Kanara.

D.Dis Nos. 9414-31 and
546-32 dated 2-12-31 &20-1-32

Thangappa niece of Chandayya
Naika. -- -- Appellant.

Padmappa Hegde -- Respondent

Memo of additional grounds
of second appeal.

Mr. K. ~~Sundara Rao~~ Vittal Rao

Advocate for appellant.

Subject.

R. F. XXII-A-19-30,004--2-2-31(6)

R MEMBER. Village officers - (South Kanara) - Karkal Th - Kuttilu Vge - Headman - Registry of minor - Thaingappa - Revision Petition

READ AGAIN B. P. No. _____ ,dated _____ 193

" " " _____ , " _____ 193

READ ALSO :--

Register No. _____. From the A. 1160/32 b/p No. 1-13 cf, dated Q 193

" " _____, " " A 1409/32 pp. 33-36 cf Q 193

" " _____, " " _____, _____, " _____ 193

" " _____, " " _____, " _____, " _____ 193

RESOLUTION. Refer No. A. 1160/32/1 dated 29/4/32 193

Forwarded to the Collector of South Kanara for submission of the connected records with remarks on any allegations in the petition which have not been clearly dealt with in the records.

KS.
28/4/32

29-4-32

Remind Collector 29-6-32

e Collector of
South Kanara
with the petition in original
to be returned with reply
(B) pp 1-28; 33-38

Typed 29/4

DESPATCHED
30 APR 1932
30/4

41 - R.P.129 A 1920 Records

D.Dis.No.4331-32. South Kanara Collector's Office,
Mangalore, 10th June 1932.

From

Khan Bahadur J. Hussain, Bar-at-law,
Collector of South Kanara.

The Secretary to the Board,
Land Revenue and Settlement,
M a d r a s.

Sir,

Village Officers - (South Kanara) - Karkal Taluk - Kuthlur village - Headman - Registry of minor - Thangappe - Revision petition - Report submitted.

Board's Reference A 1160-32-1, dated 29th April 1932.

*****

I resubmit herewith the petition from Thangappe together with its enclosures received with the Board's reference quoted above.

2. The last permanent holder of the office of Potail of Kuthlur village was one Appu Naika. He had been appointed on condition of passing the Potail's tests within two years. This period having expired ~~expired~~ early in 1914, he was granted an extension of time for one year to pass the tests. Meanwhile, a case of fraud and oppression on his part came to light and his services were dispensed with by the Revenue Divisional Officer, Coondapoor, who also ordered that he should not be re-employed again. (Please see his order N.Dis.G.C.796/1914 dated 1st April 1914, which is filed in Karkal Taluk office Dis.1515/Rev./14, dated 9th June 1914). Appu Naika's appeal to the Collector also ended in rejection in this office Dis.No.3590 D/Rev., dated 13th August 1914. This file has been destroyed, but the fact of the dismissal of the appeal is borne out by the Sub Collector's order N.Dis.G.C.2048/14 in Taluk Dis.1337 D of 1914.

3. Though the Revenue Divisional Officer's order was worded as "services are dispensed with" it practically amounted to one of dismissal, carrying, as it did, a disability with regard to his re-employment. Please see B.P.No.2369 Misc., dated 18th June 1913. In fact, it was referred to and acted upon as a case of dismissal by the Sub Collector Mr. Wells, while filling up the vacancy. Though he appointed Dugganna Naika, a relative of the dismissed man as Potail, he ordered that he should not enter upon the duties during the life time of the dismissed man and appointed one Marianna Hegde to act as Potail. Please see Sub Collector's order N.Dis.G.C.2048/14 quoted above. Dugganna Naika's appointment was only in name and it never came into effect. He died on 20.3.1919 and when proposals were submitted in 1920 by the Tahsildar to fill up his place, the then Revenue Divisional Officer declined to make any permanent arrangement and allowed Marianna Hegde, the acting incumbent to continue to act during the life time of the dismissed person Appu Naika. Please see Coondapoor Revenue Divisional Officer's Dis.No.371 D.Rev./1921, dated 4.5.1921.

4. Marianna Hegde continued to act until his death on 29.10.1930 and his brother Padmaya Hegde, the respondent, was appointed to act from 7.2.1931. Subsequently the Sub Collector registered Nagaraja, a minor belonging to the family of the dismissed person, as heir to the potailship in his order R.O.C. A-2670-31, dated 6.5.1931 and appointed K.S. Sundernaraina Rao as Deputy to the minor. (Sub Collector's D.Dis.4254-31, dated 29.6.1931).

5. The Sub Collector's reason for re-opening the question was that by a curious mistake, Appu Naika was taken to have been "dismissed" and various orders passed on that assumption. In my opinion, there was no mistake at all about it. Appu Naika was found guilty of fraud and oppression committed by him against a poor ignorant Adi-dravida woman and her children and though the Revenue Divisional Officer dispensed with his services, his was a case in which he should properly have been dismissed (B.P. Misc. No.626, dated 28.4.1922). Though the order was not ----- properly worded, it contained the implication of dismissal and

two Divisional Officers treated it as a case of dismissal. The temporary exclusion of Appu Naika's (dismissed person) heirs --- from the office during his life time had become an established fact and the validity of the orders of the two different Revenue Divisional Officers was never questioned by the members of the petitioner's family all these years and in fact, they had practically acquiesced in them. Appu Naika, the dismissed Potail, is still living and I considered it inadvisable that any member of his family should have connection with the office during his life time. Moreover, whether the temporary exclusion of his family members from holding the office is right or wrong, the fact ----- remains that they have been so excluded by two Divisional Officers. The present Sub Collector's order in registering a minor now ---- definitely overrode the orders of two of his predecessors. I therefore cancelled it and ordered the restoration of status quo in my order D.Dis.9414-31, dated 2.12.1931.

6. On receipt of this order, the Sub Collector appointed Sundernaraina Rao, the very person, whom he had appointed as Deputy to the minor, as acting Potail, ousting the previous acting ----- incumbent - the respondent. As I had ordered the status quo ante to be restored, I saw no justification in the Sub Collector's --- order D.Dis.8243-31 making a fresh appointment and disturbing the previous existing arrangement without any fault on the part of -- the existing acting incumbent - the respondent. I therefore --- cancelled that order also in my D.Dis.546-32, dated 20.1.1932.

7. As matters stand, the family of the dismissed person -- has not forfeited altogether its hereditary claim to the office and it will revive on the death of the dismissed person, who is still living.

8. The --- records noted in the margin are -- enclosed.

(1) Huzur D.Dis.9414-31. (E)
(2) " 546-32. (D)
(3) Sub Collector's R.Dis.2670-31. → (4)
(4) " D.Dis.4254-31. → (5)
(5) " " 8243-31. → (7)
(6) Taluk Dis.39 R/Rev./21. → (K)
(7) " 1337 D of 1914. → (L)
(8) " 155 R/Rev./1914. → (M)
(9) Revenue Divisional office 371 D/Rev/21. → (J)

A. Krishnamurti 13/6/32

For Collector.

13.6.32

Subject.

H. F. XXII-A-19--30.000--2-2-31 (5)

FOR MEMBER. Village officers - (South Kanara) - Karkal Tk - Kulthur Vge - Headman - Registry of minor - Tangappe - Revision Petition - Notice to the Counter petitioner

READ AGAIN B. P. No. _____ ,dated _____ 193

" " " _____ , " _____ 193

READ ALSO :—

Register No. _____ From the A 1160/32 pp, No. 1-13 ,dated Q 193

Board's Ref A 1160/32/1 & 29-4-32 p. 39 of Q

" " _____ , " " ~~A 1920/32 pp, 41-43 of Q~~ 193

" " _____ , " " _____ " " _____ , " _____ 193

RESOLUTION. Refer No. A. 1160/32/2 dated & 30.6.32 193

pp 49-51 of (M)

DESPATCHED
4 JUL 1932

R.T. & 10/8/32 pp.
10/8/32

The Board has examined the records of the case. The Sub Collector's order N Dis G.C 796/1914 & 1-4-1914 does not contain a bar order similar to that in Section 10(4) of the Madras Act III of 1895. Further Appu Naika was only a probation or an acting headman. Before he completed the tests and was confirmed in the post his services were dispensed with. A bar order could not be passed in such a case. It therefore follows that the

last holder of the office was Bhandayya Naika and not Appu Naika or Dugganna Naika. The view taken by the predecessors of the Revenue officer and the present Collector, that Appu Naika was the last office holder and that the vacancy could not be permanently filled up during his lifetime is not correct. The collector's Dis. 9414-31 Dis. 546-3 orders dated 2-12-31 and ..... pp. 19-20 of (E).
20-1-32 have to be cancelled pp 7 & 8 of (D).
and the name of Bhandayya Naika has to be appointed as permanent headman. The collector is requested to call upon the counter petitioner, Padmavaya Hegde to show cause in writing within one month why the proposed order should not issue and to submit his statement to this Board with the collector's remarks.

To
The Collector of South Kanara
with records as per list to be resubmitted with reply
(D) list at pp 43 (1)

K.S.J.
29.6.32
pp BBR

pp BBR

pp BBR
29/7

Remind Coll 10-8-32

47.

DF 132 A2625 Accord

D.Dis. No. 6219-32. South Kanara Collector's Office,

Mangalore, dated 14th Aug. 1932.

From

Khan Bahadur J. Hussain, Bar-at-law,

Collector of South Kanara.

To

The Secretary to the Board,

Land Revenue and Settlement,

M a d r a s.

Sir,

Village Officers - (South Kanara) - Karkal Taluk - Kuthlur village - Headman - Registry of minor - Tangappe - Revision petition - Notice to the counter-petitioner - Report submitted.

bp 45-46 CF Board's Reference No.A.1160-32 dated 30-6-1932.

---

bp 49-55 CF I submit herewith the representation of the counter-petitioner Padmaya Hegde received in response to the notice issued to him as directed in the Board's reference quoted above. I have no remarks to offer.

2. The records noted in the margin are enclosed.

Huzur D.Dis.No. 9414-31.	(E)
do. 546/32.	(D)
Sub-Collector's R.Dis. 2670-31.	(H)
do. D.Dis. 4254-31.	(G)
do. " 8243-31.	(A) (K)
Taluk Dis.39 R.Rev.21.	(L)
" 1337 D of 1914.	(F)
" 155 R/Rev.1914.	
9. Revenue Divisional office 371 D/Rev. 21.	(I)

For Collector.

KAR 17.8.32

COLLECTOR'S OFFICE
12 AUG
1932
SOUTH CANARA

49

4

Before the Honourable Members of the Board of Revenue.

Through the Collector of South Kanara.

Padmaya Hegde, nephew of Babanna Hegde, Ag: Potail of Kuthlur --- Village, Karkal Taluk. } Counter-petitioner.

Humble representations of the above named Counter-petitioner in the matter of the Revision petition of Thangappa, niece of Chandayya Naika, Kuthlur village.

Most respectfully sheweth:

The Counter-petitioner named above having been called upon by the Collector in his Ref: A1-6219-32 dated 8-7-1932 to show cause in writing why his appointment as Potail of Kuthlur village should not be cancelled, begs most respectfully to represent as follows:-

2. That one Appu Naika, nephew of Chandayya Naika, was the Potail of Kuthlur village till about 1914, when he was dismissed from service for having committed fraud etc., In the same year, Dugganna Naika, a minor member of the family of Appu Naika was registered as Potail; but he was debarred fr joining the post till the death of the dismissed Potail and Marianna Hegde, the Counter- petitioner's brother was appointed in his place as Potail.

3. That the said Dugganna Naika died in 1919 and no membe of Appu Naika's family was registered as heir. In fact, the Divisional Officer declined to make any appointment of a member of Appu Naika's family during his life time. The counter-petitioner submits that no member of the family ever appealed against such decision.

4. That after the death of Marianna Hegde in 1930 the Counter-petitioner was appointed as Potail and is still continuing in that post.

5. That when the Counter-petitioner was appointed, the order debarring the members of Appu Naika's family from holding Office had been in force for over 16 years and no member of Appu Naika's family had ever challenged the validity of two Divisional Officers' orders.

6. That it is only several months after the counter-petitioner's appointment, the present Divisional Officer, Coondapur thought it fit to re-open the question and holding that the debarring of Appu Naika's family was due to a mistake he cancelled the counter-petitioner's appointment and registered a minor from the dismissed Potail's family. The Counter-petitioner having appealed to the Collector, the latter restored status quo.

7. That the counter petitioner ventures to submit that though for all appearances Thangappe's appeal to the Board looks like an appeal against the Collector's order, it is in fact an appeal from the Divisional Officers' orders of 1914 and 1919 and is only an attempt in a new garb to reopen a question set at rest long ago, for, the Collector had passed no fresh orders but only restored the old state of affirs There would have been no occassion for the Collector to pass such an order but for the fact that the Divisional Officer wrongly interfered with the conditions created by two of his predecessors. In this connection, the counter-petitioner humbly submits for the kind consideration of the Honourable Board that in the first place, the Divisional Officer had no jurisdiction to make a fresh appointment of a minor now, thereby setting at naught the previous orders of two of his predecessors-in.office, even granting that Appu Naika's dismissal did not

involve the disqualification of his heirs during his life time. In the second place, the Appellant Thangappe's family having failed to urge their claims at the proper time and thereby acquiseced in the previous Divisional Officers' orders for over twelve years,are estopped from either urging their claims now or questioning the validity of those orders debarring them from holding office.

8 That the Appellant's cause of action is thus barred by absolute limitation. The Hereditary village Officers Act does not make any provision for correcting any orders, though wrong, after the period of limitation nor does it confer any powers on the Divisional Officer to revise the orders of his predecessors. This is in fact, what the Divisional Officer did and which the Collector rightly cancelled. If an officer cannot modify his own order, though it may subsequently transpire that it is wrong, still less could an officer revise his predecessor's orders. The Counter-petitioner, therefore, most humbly submits that the present Divisional Officer in practically revising his predecessors' orders which had been in force for over 12 years acted without jurisdiction and to uphold such an order, the counter-petitioner most humbly and respectfully submits, would be against established cannons of law and justice.

9. That the counter-petitioner finally leaves it to the merciful consideration of the Honourable Board and their sense of justice whether the Honourable Board can at this distance of time modify the Divisional Officer's order of 1914 and 1919 even after a lapse of 12 years in the face of the fact that Appu Naika's family members failed to challange them at the proper time by availing themselves of the opportunities of appeal etc., legally allowed by the Act. The Counter-petitioner most humbly submits that the Honourable Board may be pleased to consider this important point in all its aspects.

10. That the Counter-petitioner's brother loyally and faithfully served Government for over 16 years and thereaf the counter-petitioner himself has been serving so and discharging his duties satisfactorily since his appointment after his brother's death.

11. That the counter-petitioner therefore prays that taking into consideration the above facts and specially the the point of absolute limitation estopping Appu Naika's family from urging their claims during the life time of Appu Naika, when the order debarring them have been in full force for over 12 years and the loyal and faithful services of the counter-petitioner's family the Honourable Board may be graciously pleased not to issue the proposed orders but to continue the Collector's orders.

. For which act of kindness and justice the counter-petitioner shall as in duty bound ever pray.

Kutkudeure
8-8-1932.

A. Radhaya Hegde Patil

57

Subject.

R. F. XXII-A-19--30,004--2-2-31 (6)

FOR MEMBER. Village officers - (South Kanara) - Karkal Tk - Kulturlur Vge - Headman - Registry of minor - Tangappe - Revision Petition Orders passed

READ AGAIN B. P. No. _____ ,dated _____ 193

" " " _____ , " _____ 193

A 1160/32 pp 1-13 CF Q

READ ALSO :--

Register No. Board's Ref From the A 1160/32/1 Of 29-4 No. 32 p. 39 dated _____ 193

A 1920/32 pp 41-43 CF

" Board's Refce, A 1160/32/2 Of 30-6-32 pp 45-46 CF Collector Q to only

A 2627/32 pp 47 CF

" " _____ " " _____ " " _____ 193

RESOLUTION. Mis No. 2615, dated 1-9-32 193

This is a revision petition to the Board in the matter of the registry of a minor to the headman's office The Board has examined the records of the case. The Sub Collector's Order IV. Dis G.C. 796/1914 Of 1-4-1914 pp 49-51 of(M) does not contain a bar order similar to that in section 10(4) of the Madras Act III Of 1895 further Appu Naika was only a probationer or an acting headman Before he completed the tests and was confirmed

in the office his services were dispensed with. A bar order could not be passed in such a case. It therefore follows that the last holder of the office was Chandayya Naika and not Appu Naika or Duggamma Naika. The view taken by the predecessors of the Rev. Divl. Officer and the present Collector that Appu Naika was the last office holder and that the vacancy could not be permanently filled up during his life-time is not correct. The Board issued a notice to the counter petitioner to show cause in writing why the Collector's orders should not be cancelled. The Board has perused his objections and considers that they are untenable. The Board therefore cancels the Collector's orders

D. Dis 9414-31 dt 2-12-31 pp. 19-12-0 (E)
and D. Dis 546-32 dt 20-1-32 pp. 7-8 of (D)

and directs that the heir of Chandayya Naika should be appointed as headman.

2). The petitioner is referred to the Collector for orders on his petition

K.S.
30/8/32
pm 31.8.32

1-9-32

To
The Petitioner
M.R.Ry
Tangappe niece of
Chandayya Naika
C/o her counsel
~~M.R.Ry~~ Messrs
T. Appaji Rao and
K. Vittal Rao
49 Kutchery Road
Mylapore, Madras
with enclosures returned
Ⓟ 17-18;

para 2 only

To
The Collector of South Kanara
with records returned
Ⓟ list at p. 47 cf.

Note File.

S
A.S.(L/R)

Village officers - (South Kanara) - Karkal Tk - Kuthlur Uge - Headman - Registry of minor. Thangappa - Revision Petition.

A. 1160/32 pp 1-13 Cf.

To A.S.

Non hereditary and non statutory -

2). No second appeal lies. The revision petition is in time.

3). This is a revision petition against the

pp 23-25 Cf. Collector's order cancelling that of the Divl.

pp 19-21 C.F. Officer appointing one Sundaranarayanaka to act as the headman of the Uge.

4). For a history of the case please see pages 1-11 Cf and pages 15-16 Cf. The grounds on which the petitioner moves the Board are at pages 11-13 Cf. The petitioner

p. 13 Cf requests that the Collector's order may be Cancelled and the Divisional officer's order may be restored.

5). The points for consideration are

(i) Whether the registry of minor was Correct and

(ii). Whether the counter petitioner can be appointed.

6). Though a non hereditary tract, registration of minors is allowed in the South Kanara Dt. If Appu Naika's services were only dispensed with, with a

direction that he should not be employed p. 15 C.F.
again it cannot be taken to be a bar
order prohibiting his successors from 19
being appointed to or being registered for
the office so there was no necessity for
making temporary appointments and it
seems as if permanent arrangements
could have been made. This has to
be verified. If there was no bar order,
the order of the Divl. Officer registering a pp. 15-16 C.F.
minor appears to be correct. It is not
known under what circumstances the
Collector cancelled this order and restored the p. 19 C.F.
status quo ante. This also
has to be ascertained.

D: Even supposing that a prohibitory
order was passed, it was obvious that
the appointment of Padmanaya Mariamma Hedge was
only a temporary one. When he died
another temporary man has to be appointed
but it is not known what locus standi
the Counter petitioner had to prefer an
appeal. As the facts of the case are not
clear and as some irregular orders
appear to have been passed the
records of the case may be called for.

K.S. It does not appear that there was a bar order
25/4/32 in this case. Appu Naika was only a probationary man p. 15 C.F.

and no bar order can be passed against him. The vacancy should have been permanently filled up. It is not clear who the last office holder was and from whom the succession has to be traced. In fact of this case are not clear. Records w

6.4.32 S

27.4.32

Draft submitted

TO A.S.

Draft Submitted

2). The petitioner has filed an additional memo of appeal grounds. Vide A.1409/32. This may be considered after the receipt of the records from the Collector.

33-36 Cf.

28/4/32

29.4.32

M.
S
A.S. (L.R)

A.1160/32 pp 1-13 Cf
A.1409/32 pp. 33-36 Cf
Board's Ref A 1160/32/19 29.4.32 p. 37 Cf
A.1920/32 pp 41-43 Cf

TO A.S.

The Collector has summarised the facts of the case and has given a detailed histor

Please see his report at pages 41-43 Cf.

Appu Naika was only a probationary man, that his services were only dispensed with, that he was not dismissed, that no bar order was passed and consequently the registration of minor Nagaraja made by the Rev. Divl. officer was valid: para 4 on pp. 3-5 of... para 9(c) on p. 11 of.

The point for consideration now is whether the order of the Rev. Divl. officer dt 1-4-14 dispensing with the services of Appu Naika is to be considered as an order of removal or as an order of dismissal. If this point is settled the answers to points (i) and (ii) in para 5 of the notes at p11 N 7. will readily follow. The Divl. officer Considered that the order passed against Appu Naika was one of removal only. Para 5 of the Collector's report gives the reasons why he interfered with it. pp: 49-51 of (M)

Appu Naika was charged with two offences of fraud and oppression and the order passed by the Divl. officer ran as follows: "He is an acting Patel. His services are dispensed with and he will not be employed again" Ordinarily an order dispensing the services of a person has to be taken as an order of removal. Vide the orders at p. 60 of B. P. -22-80 Misc. 11-6-13. A man who is removed is eligible for reemployment whereas a para 1 on p 61 of (H) pp 42-43 of p: 51-07 (M) Flag (S)

dismissed man cannot be reemployed again. Please see the instructions issued in B.P. 2369 Mis & 18-6-13. In the present case the ~~additions~~ ~~of the~~ words "He will not be employed again" are added to the order. The order was passed shortly after the instructions in B.P. 2369 Mis & 18-6-13 were issued. It must be presumed that the Divl. officer (Mr G. W. Priestly) knew ~~about~~ B.P. 2369 Mis & 18-6-13. If his intention was that the order should have the effect of removal only he would not have added the clause about the headman's future employment. His addition shows that his intention was to dismiss the headman. The word dismissed was probably not used because Appu Naika was an acting man. Further in B.P. 626 Mis 28-4-22 the Board issued instructions that in cases in which a person is found guilty of fraud, the proper order is one of dismissal and not one of removal. Putting all these together it appears that the order passed against Appu Naika was intended to be one of dismissal and not one of removal.

Flag (Z) & ¶ 51 of (M)

Flag (Z)

Flag (Z)

Flag (V)

Now it remains to be seen whether it is proper to exclude the heirs of Appu Naika from being appointed. The order passed against him does not say that even his

pp 49-51 of (M)

his heirs should not be employed He being
a probationary man no such order can be
passed against him. The order of the Collector
in appeal also did not contain a bar order. para 1 on p 220 of (L
It contained a statement that the facts of the case
against the appellant reveal a shameful case do
of fraud and oppression on his part. This
is only a comment on the conduct of the headman.
This appears to have been taken to mean a
prohibitary order and the Rev. Divl officer
(Mr. G. W. Wells) passed an order that Dugganna do
Naika should not enter upon the duties of the
office during the lifetime of Appu Naika
Another Rev. Divl officer (Mr. Pais) also p. 9 of (K)
held the same opinion. The Collector considered
that correctly or incorrectly the heirs of para 5 on pp 42-43
Appu Naika were excluded and that the the
Divl: officer should not have gone behind
the orders of two of his predecessors. This does
not appear to be correct. In the absence of an
express provision in the original order passed, pp 49-51 of (M)
the exclusion of the heirs is not justified
The fact that two Divl officers were of the
same opinion is not a sufficient ground
to exclude the heirs till Appu Naika dies
If this view is accepted the Collectors
order may be cancelled.

In filling up the vacancy the heirs

of Bhandayya Naika who resigned the office in 1911 have to be considered. Appu Naika's appointment being only a probationary one and Dayyanna Naika having died as a minor without entering upon the duties of the office, both of them cannot be considered as last office holders. It is not known if Nagaraja is the heir to Bhandayya Naika. If he is, the Divl. Officer's order may be restored. Otherwise, another man will have to be appointed. In the circumstances a notice may be issued to the counter petitioner to show cause why the Collector's orders should not be cancelled and the Collector may be asked to report the name of the heir if any of Bhandayya Naika qualified for appointment.

p 1 Cf.

see 2 on p. 41 Cf

para 3 on p 42 Cf

pp. 19. 20 of (E) and pp. 7-8 of (D)

K.S
21/6/32

Please see the Sub Collector's order at p 5 of (M). It does not contain a bar order - Similar to that in S 10 (4 of Mad. Act III of 1895. Further Appa Naika was only a probationer or an acting Odeyar. Before he completed the term and was confirmed in the post his services were dispensed with. A bar order could not be passed in such a case. It therefore follows that the last holder of the office

(Please see the Tahsildar's report at p 39 of (M))

Ramaswamy Chandrayya Naidu, not Appaji Naidu or Duggayya Naidu who was appointed in 1914 but did not join the post. The news taken by Messrs Wells & Davis (and the present Collector) that Appaji Naidu was on leave at the time and that the vacancy could not be permanently filled up during his lifetime is not correct. The Collector's orders dt. 2-12-31 and 20-1-32 may be cancelled after giving notice to the respondent. The heir of Chandrayya Naidu has to be appointed as permanent patail

pp 49 + 20 of (E) + pp 7 + 8 of (D)

I agree with A.S.

24.6.32.

SECY. 29 JUN 1932

hm.

Yr. C has made a note of what occurs in Lr.

26.6.32

Draft dt 29.6.32

TO A.S.

Draft submitted

A.S. (L.R)

ICS. 29.6.32 M 30.6.32

M2
S
A.S(L.R)

To A.S.

The Collector has submitted the reply of the counterpetitioner. He states that the Board's proposed order should not be issued for the follow grounds

pp. 49-55 Cf

(i). that the petitioner's claim is barred by limitation as that he is estopped from urging his claims now because the Divl. officer's order debarring the heirs of Appu Naika was in force for a long time.

paras 7 & 8 on pp 51-53 Cf

(ii) that the Divl. officer had no jurisdiction to make a fresh appointment thereby setting at naught the orders of his predecessors.

para 7 on pp 51-53 Cf

2). Point I :- Nagaraja's claims appear to have been put forth ever since the death of Daggunna Naik (Please see the Tahsildar's report D. Dis 203 of 21 dt. 20.3.21) but the claims were rejected by the Divl. off on the ground that Appu Naika was still alive. The Divl. Officer ordered that Marianna ~~Hegde~~ Hegde Shou continue to act during the life tim

p & ¶ of (I)

p. 3 of (I)

do

of Appu Naika. Again after the death of Marianna Hegde when the question of appointment was taken up, Nagaraja's claims were again put forth. It is thus seen that everytime an opportunity arose the petitioner put forth his claims further the cause of action for the petitioner arose when the Collector cancelled the order of the Rev. Divl. officer. So the objection that the petitioner's claim is barred by limitation cannot stand. p/1 of (H)

p.p 17-10 of (E)

pp 59-62 of (H).

3) Point (ii) :- This also is not correct. The Divl. officer is not bound to ~~obey the~~ by the wrong orders passed by his predecessors. The counter petitioner has no claim to the office being the brother of Marianna Hegde, an acting man In the circumstances, the Board's proposed order may be confirmed.

K.S. pp 46 CF

K.S.
24/8/82

S

E.Y. 30 AUG 82

I agree.

29.8.82

Draft
Room

To A.S.

Draft submitted.

A.S(L.R)

K.S.
30/8/82
P.S 1 0 3.